

ORDINANCE NO. 102, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS
OF THE CITY OF FORT COLLINS PROPOSED AMENDMENTS
TO SECTIONS 2 AND 5 OF ARTICLE X OF THE CITY CHARTER
RELATING TO REFERENDUM AND PETITION REQUIREMENTS

WHEREAS, Article IV, Section 8 of the Charter of the City of Fort Collins (“Charter”) provides that the Charter may be amended as provided by the laws of the State of Colorado; and

WHEREAS, Section 31-2-210, Colorado Revised Statutes, provides that Charter amendments may be initiated by the adoption of an ordinance by the City Council submitting a proposed amendment to a vote of the registered electors of the City of Fort Collins; and

WHEREAS, Article X of the Charter governs the initiative and referendum processes for City elections; and

WHEREAS, Section 2 and Section 5 of Article X provide inconsistent direction regarding the effects of certification of a referendum petition and the timing of the Council’s next required actions on the petition; and

WHEREAS, in addition, inconsistencies in some references within these sections can raise questions about their meaning; and

WHEREAS, these provisions of the City Charter currently appear as lengthy blocks of text that are difficult to read and follow, increasing potential confusion for those seeking to participate in and conduct the referendum process or petition process in general; and

WHEREAS, the City’s regular municipal election will be conducted on Tuesday, November 7, 2023, by Larimer County as a part of the coordinated election to be conducted on the same date (“City Election”); and

WHEREAS, Council desires to amend the Charter to correct, reconcile and clarify the referendum and petition process requirements, and to increase the readability of those provisions.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the following proposed changes to Section 2 and Section 5 of Article X of the City Charter shall be submitted to the registered electors of the City as “Proposed Charter Amendment No. ___” at the regular municipal election to be held on Tuesday, November 7, 2023:

ARTICLE X. INITIATIVE AND REFERENDUM

• • •

Section 2. The referendum.

- (a) Power. The registered electors of the city shall have the power at their option to approve or reject at the polls, any ordinance, or portion of ordinance, adopted by the Council, except ordinances making the annual property tax levy, making the annual appropriation, calling a special election, or ordering improvements initiated by petition and to be paid for by special assessments.
- (b) Commencement of proceedings.
 - (1) One (1) or more registered electors may commence referendum proceedings by filing with the City Clerk within ten (10) days after final passage of the ordinance in question, a notice of protest against the going into effect of the ordinance. The notice shall be brief and need not state any reasons, but shall identify the ordinance or part thereof, or code section it proposes to have repealed.
 - (2) Not later than ten (10) days after the filing of the notice, the proponents shall present to the City Clerk the final form for the referendum petition conforming to the requirements of the Article.
 - (3) If the notice and petition form are timely presented, the City Clerk shall approve the petition form for circulation, in accordance with Section 5(b) of this Article.
 - (4) The petition shall be circulated, signed, verified, and filed in the manner prescribed by Section 5 of this Article.
- (c) Number of signatures required. The petition must be signed by registered electors of the city equal in number to at least ten (10) percent of the total ballots cast in the last regular city election.
- (d) Petition deadlines. The referendum petition shall be filed within twenty (20) days after the City Clerk's approval of the petition for circulation. If a completed petition is not subsequently filed within the requisite time after the City Clerk's approval of the petition for circulation, the referendum effort is null and void and the petition shall not be circulated further.
- (e) Action by Council.
 - (1) The presentation to Council City Clerk's certification of a petition certified by the City Clerk as sufficient for referendum shall automatically suspend the operation of the ordinance in question pending repeal by Council or final determination by the electors.
 - (2) The Council shall reconsider the ordinance at the next regular meeting of the Council, or at an earlier prior special meeting of the Council called for this purpose, following the receipt of the certification of the petition by the City Clerk, and shall adopt an ordinance to repeal the ordinance in question, or part sought to be repealed, on first reading, with second reading no later than the next regular meeting.
 - (3) If the ordinance, or that part sought to be repealed, is not repealed by final action on such repealing ordinance, the Council shall must refer the same to a vote of the registered

electors at the next regular or special city election scheduled for any other purpose. Alternatively, the Council may call a special election for that specific purpose.

...

Section 5. Petitions.

- (a) Separate petitions required. A separate petition shall be circulated and filed for each measure sought to be initiated or referred to the vote of the electors.
- (b) Form and content.
 - (1) Approval of form for circulation.
 - a. No petition shall be circulated until the City Clerk has approved the form for circulation.
 - b. The City Clerk shall first determine that the petition form contains only the matters required by this Article.
 - c. The Council shall prescribe by ordinance, upon recommendation of the City Clerk, a general form of petition which shall contain warnings and notices to signers as necessary.
 - d. The City Clerk's approval under this Section shall not constitute an approval of the content of the petition, but rather, shall start the running of the time periods provided for circulation and filing of petitions.
 - (2) Petition content.
 - a. The petition shall be addressed to Council.
 - ab. ~~Initiative. The~~ **An initiative** petition shall contain or have attached to each section throughout its circulation the full text of the proposed ordinance or resolution and shall contain a general statement of purpose fairly and accurately summarizing the proposed ordinance or resolution, indicating that the petition is to be circulated in support of the initiated ordinance or resolution and specifying whether a special election is requested.
 - bc. ~~Referendum. The~~ **A referendum** petition shall contain or have attached to each section throughout its circulation the full text of the ordinance sought to be referred, clearly identifying the protested portions if only a partial repeal is sought. In the case of bond ordinances, the full text of the ordinance need not be set forth but the petition shall contain or have attached to each section throughout its circulation the title and summary of the ordinance in question as prepared by the City Clerk.
 - (3) Signatures.
 - a. Only registered electors may sign the petitions authorized under this Article.
 - b. Each signer must sign his or her own signature and each signature shall be followed by the printed name of the signer, the street and number address of his or her residence, and the date of signing.
 - c. No person shall knowingly sign an initiative or referendum petition more than once.

- d. In the event that the signature of any person appears more than once on a petition authorized under this Article, the first signature verified shall be counted and all other signatures of that person shall be rejected.
 - (c) Circulation of petition.
 - (1) The petition may be circulated and signed in sections with each section consisting of one (1) or more sheets securely fastened at the top, provided that each section contains a full and accurate copy of the text of the petition and the names and addresses of the designated representatives for the petition.
 - (2) All sections shall be filed as one (1) instrument.
 - (3) Only persons eighteen (18) years of age or older may circulate the petition for signatures.
 - (4) The circulation of any petition by any medium other than personally by a circulator is prohibited. No person shall receive any compensation whatever for signing an initiative or referendum petition.
 - (d) Affidavit of circulator.
 - (1) A circulator shall attach to each section of the petition circulated an affidavit signed by the circulator under oath before a notary public stating the following:
 - (1i) the circulator's address of residence;
 - (2ii) that the circulator is eighteen (18) years of age or older;
 - (3iii) that he or she personally circulated the section;
 - (4iv) that each signature was affixed in the circulator's presence;
 - (5v) that to the best of the circulator's knowledge and belief each signer was at the time of signing a registered elector of the city;
 - (6vi) that to the best of the circulator's knowledge and belief each signature is the genuine signature of the person whose name it purports to be;
 - (7vii) that each signer had an opportunity before signing to read the full text of the petition; and
 - (8viii) that the circulator has not paid or offered to pay any money or other thing of value to any signer for the purpose of inducing or causing the signer to affix his or her signature to the petition.
 - (2) A petition verified by the valid affidavits of its circulators in each of its sections shall be prima facie evidence that the signatures thereon are genuine and true.
 - (e) Time limits; petition representatives. Petitions for initiative and referendum shall be filed with the City Clerk within the requisite time limits or they will be deemed null and void. Each petition shall designate by name and address not less than three (3) nor more than five (5) registered electors who shall represent the signers of the petition in all matters affecting the petition.
 - (f) Sufficiency of petition.

- (1) Examination. Within five (5) working days of the filing of a petition the City Clerk shall ascertain by examination of the petition and the registration books whether the petition is signed by the requisite number of registered electors and contains the required particulars and affidavits. If the petition is insufficient, the City Clerk shall so certify and forthwith notify all of the designated petition representatives in writing, specifying the particulars of insufficiency.
- (2) Insufficient petition; amendment.
 - (i) If an initiative petition is deemed insufficient, whether following the initial determination by the City Clerk, or following protest proceedings, it may be amended by the submission of additional signatures collected after the City Clerk approved the form of the petition and within fifteen (15) days from the filing of the Clerk's certificate of insufficiency.
 - (A) Such signatures must be collected consistent with the requirements for collecting petition signatures as described in this Article.
 - (B) Within five (5) working days after such amendment, the City Clerk shall make examination of the amended petition and certify the result.
 - (C) If the amended petition is still insufficient, or if no amendment was made before the expiration of the time permitted for amendment, the petition shall be null and void without prejudice to the filing of a new petition for the same purpose.
 - (ii) If a referendum petition is deemed insufficient, it may be amended by the submission of additional signatures collected consistent with the requirements of this Article, but to be considered, **any additional signatures** must be **amended submitted** within the twenty-day circulation period after the City Clerk's approval of the petition form for circulation.
 - (A) **Such signatures must be collected consistent with the requirements for collecting petition signatures as described in this Article.**
 - (B) Within five (5) days after such amendment, the City Clerk shall make like examination of the amended petition and certify the result.
 - (C) If the amended petition is still insufficient, or if no amendment was made before the expiration of the time permitted for amendment, said referendum petition is null and void and a new petition may not thereafter be filed for referendum of the same ordinance.
- (3) Protests.
 - (i) Registered electors desiring to protest a determination by the City Clerk that a petition is either sufficient or insufficient may file a written protest, under oath, in the office of the City Clerk within ten (10) days of the filing of the petition. The protest shall set forth with particularity the grounds of protest and the names and defects in form protested.
 - (ii) Upon the filing of a protest, the City Clerk shall set a time for hearing such protest, which shall be no more than seven (7) days thereafter.

- (iii) At least five (5) days prior to the hearing, the City Clerk shall mail a copy of the protest to all of the designated petition representatives together with a notice of the time for hearing.
- (iv) All hearings shall be before a hearing officer appointed by the City Manager who shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents.
- (v) All records and hearings shall be public, and all testimony shall be under oath.
- (vi) The hearing shall be summary in nature and concluded within thirty (30) days after the petition was filed.
- (vii) ~~Said~~ The hearing officer shall decide and certify the results of the hearing within ten (10) days after the hearing is concluded, and no further protest regarding the petition may be filed.
- (viii) The City Clerk shall make any final determination regarding the sufficiency or insufficiency of a petition and shall base such determination on the protest hearing results certified by the hearing officer.
- (ix) A petition for referendum which has been deemed insufficient after protest may not be amended or circulated further and no further protest regarding the petition may be filed.

(4) Certification and presentation to Council. When and if a petition or amended petition is deemed sufficient, whether following the sufficiency determination by the City Clerk in the absence of a protest, or following protest proceedings, the City Clerk shall so certify and then present the certified petition to the Council at the next regularly scheduled meeting or special meeting called for this purpose. The City Clerk's certificate shall then be a final determination as to the sufficiency of the petition. Section 3. That the following ballot title and submission clause are hereby adopted for submitting Proposed Charter Amendment No. __ to the voters at said election:

**CITY-INITIATED
PROPOSED CHARTER AMENDMENT NO. __**

Shall Section 2 and Section 5 of Article X of the Charter of the City of Fort Collins, regarding the referendum process and petition process, be amended to eliminate inconsistency in language and make clear that certification of a referendum petition as sufficient stays the impact of the referred ordinance, that Council may consider a referendum petition at a special meeting called for that purpose, and making other clarifying and organizing edits to make those provisions more readable and understandable?

_____ Yes/For
_____ No/Against

Introduced, considered favorably on first reading, and ordered published this 18th day of July, 2023, and to be presented for final passage on the 15th day of August, 2023.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading on the 15th day of August, 2023.

Mayor

ATTEST:

Chief Deputy City Clerk